Opening Statement

Chairman Michael G. Oxley

Committee on Financial Services

Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises

"Reviewing U.S. Capital Market Structure: Promoting Competition in a Changing Trading Environment"

October 30, 2003

Thank you, Chairman Baker, for holding this important hearing today. There are few issues that come before this Committee that are as fundamental as how investors buy and sell securities.

This Committee's first market structure hearing earlier this month was quite encouraging. I was pleased with Mr. John Reed's candid and forthright testimony. There is no question that he has volunteered for a difficult job under trying circumstances. But I believe he is the right leader at the right time to right the ship at the New York Stock Exchange.

More importantly, I also believe that the recent controversies at the NYSE present a real opportunity to enact significant and long overdue reforms to the market structure of the U.S. An opportunity like this does not come around often, and we must not squander it.

I have long taken the position that investors benefit from multiple market centers that engage in vigorous competition based on speed and certainty of execution, anonymity, and price. The government should not decide which markets prosper. In fact, it is our obligation to ensure that no markets have regulatory advantages that inhibit competition and artificially preserve market share.

Accordingly, it is imperative that we revisit the rules and regulations that have governed the markets for more than a quarter of a century. What Congress did in 1975 may have made sense at the time, but those policy decisions were made prior to the greatest technological advances in human history.

It makes no sense whatsoever for these outdated regulations – which preceded, for example, the advent of Netscape by two decades – to be controlling in today's high-tech environment.

With the change in leadership at the NYSE, I believe we are at a crossroads with an important opportunity to implement changes that will foster competition and make our markets more efficient. The Intermarket Trading System is an outdated construct that has outlived its usefulness. It is time to revamp the system that links our markets so that market forces and modern technology can replace bureaucratic, restrictive regulatory systems.

There has been a great deal of talk about the need to reform the ITS's "Trade-through rule." I expect we will hear from virtually all of our witnesses here today about this issue. It is clear to me that the time for reform is long overdue. Price simply is not the only factor to be considered for purposes of best execution.
The trade-through rule, as it stands, is standing smack in the way of more efficient, competitive markets.

The viability of the SRO model depends on whether it is one that uses regulation to protect investors and promote confidence, or to hamper competition. We will examine many of those rules today.

Central to today's discussion will be the role of the specialist. It has been widely criticized as monopolistic, anachronistic, and unnecessary in today's highly evolved technological environment. John Bogle, who has appeared before this Committee several times, calls it "a dinosaur that maintains as much of a monopoly as you can get in this world." Even more alarming are the allegations of wrongdoing that call into question the integrity of this model, and whether it creates an irresistible opportunity to put the specialist's interests ahead of investors'. Critics of decimal pricing argue that decimal pricing has led to front-running and other trading violations. I would argue that these abuses are symptomatic of a flawed structural system, not the result of decimal pricing – which has resulted in what one commentator has called a "billion dollar tax cut for investors." It is time to review the specialist system; today's hearing is an important step toward that end.

I have long argued that market data, the fundamental information about securities prices that is the oxygen of our marketplace, needs to be free from ownership interests that could restrict access to that data. It is essential that we ensure that investors have guaranteed full access to this information.

I am eager to hear from SEC Chairman Donaldson this morning. In particular, I look forward to learning how he intends to expedite consideration of all the pending issues before the Division of Market Regulation. As many petitioners know all too well, the failure to make a regulatory decision is often worse than an adverse decision.

I want to commend Chairman Baker for putting together an excellent and balanced second panel of witnesses and look forward to hearing their testimony as well. I yield back.

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